

## REMARKS

This Response is submitted in reply to the Final Office Action dated December 4, 2007. Claims 1, 3, 6, 7, 11, 15, 22, 23, 25 to 27, 31, 34, 38, 39, 41, 53 and 59 to 61 have been amended. Claims 5 and 43 have been cancelled without prejudice or disclaimer. No new matter has been added by these amendments.

A Supplemental Information Disclosure Statement and a Request for Continued Examination are submitted herewith. Please charge deposit account number 02-1818 for the cost of the RCE, this Supplemental Information Disclosure Statement and any fees associated with this Response.

As noted above, Applicant has filed a Request for Continued Examination with this Response. Accordingly, Applicant requests that the Examiner provide an upcoming Office Action which will ". . . identify any claims which he or she judges, as presently recited, to be allowable and/or . . . suggest any way in which he or she considers that rejected claims may be amended to make them allowable" in accordance with §707.07(d) of the MPEP.

The Office Action objected to Claim 60 for reciting "for a plurality secondary games." Applicant has amended Claim 60 to read "for a plurality of secondary games" and respectfully submits that this objection has been overcome.

The Office Action rejected Claims 1 to 5, 8 to 11, 20, 31, 37 to 43, 46 to 49, 56, 58, 59 and 60 under 35 U.S.C. §102(b) as being anticipated by GB Patent No. 2,170,636 to Foster et al. ("Foster"). Applicant respectfully disagrees. Nonetheless, to expedite prosecution of the present application, Applicant has amended certain claims for clarity.

Foster discloses a fruit machine with rotatable reels. Specifically, page 1, line 113 to page 2, line 19 of Foster discloses that to:

start a game, a coin or token is inserted or credit established. The start and gamble buttons 10 and 11 flash, and if the player wants to play a normal game he will press the start button 11, whereupon the normal game indicator 4 illuminates and the reels spin.

There may be holds available, the buttons 14 illuminating on a random basis.

However, if the player presses the gamble button 10 instead, the "Quick spin" and "2 line play" indicators on the panel 3 will flash alternately,

showing that the gamble has been taken, and then stop with one of them remaining lit. If this is the "Quick spin" indicator, then the gamble is lost and the reels spin off at high speed. However, when they stop, if there is a winning combination on the normal win line there will be a pay out.

If it is the "2 line pay" indicator that remains lit then the player again has two choices. He can press the start button 11 for the normal reel spin, or the gamble button 10.

If he chooses the former, when the reels stop the combination of symbols on the second line (the one above the normal win line) can also generate a prize. But if the gamble button 10 is pressed, then there is further alternate flashing, this time between the "Quick spin" and "5 line pay" indicators. If it stops on "Quick spin" the reels spin off rapidly as described above. The second win line is then no longer available, but the normal one is. However, if the flashing stops on "5 line pay", the player can press the start button 11 and at the end of the reel spin all five lines will be taken into account in determining a prize.

Moreover, page 1, lines 49 to 52 of Foster disclose that it:

can be arranged that, if any such gamble is unsuccessful, the reels will still spin and a prize will be paid if there is a winning combination on the normal win line.

It appears that the Office Action is interpreting the selection of the "Quick spin" indicator or the "2 line play" indicator of Foster as the play of the primary game of Claim 1 and the number of paylines provided for the spin of the reels as the gaming elements for the secondary game in Claim 1.

Amended independent Claim 1 includes, amongst other elements, at least one processor programmed to operate with the at least one input device and the display device to display a play of the primary game upon a wager by a player, wherein if an outcome generated for the play of the primary game is a winning outcome, an award associated with the generated outcome is displayed and wherein the play of the primary game provides at least one of the gaming elements for the secondary game regardless of any event in the primary game and regardless of any generated outcome of the primary game and determine whether to display and provide the winning outcome in the secondary game, wherein the determination is based upon the plurality of gaming elements provided from playing the primary game a plurality of times.

Based on the Examiner's interpretation of Foster, Applicant respectfully submits that Foster does not disclose that if an outcome generated for the play of the primary

game is a winning outcome, an award associated with the generated outcome is displayed and wherein the play of the primary game provides at least one of the gaming elements for the secondary game regardless of any event in the primary game and regardless of any generated outcome of the primary game. That is, if the determined number of paylines for the spin of the reels (i.e., the result of the interpreted primary game of Foster) are interpreted as the gaming elements for the secondary game, then such number of paylines cannot also be interpreted as the award associated with a generated winning outcome of the primary game. Thus, a generated winning outcome and at least one gaming element for the secondary game cannot both result from the determination of a number of paylines (i.e., the play of the interpreted primary game) of Foster. On the other hand, in the gaming device of amended independent Claim 1, if an outcome generated for the play of the primary game is a winning outcome, an award associated with the generated outcome is displayed and wherein the play of the primary game provides at least one of the gaming elements for the secondary game regardless of any event in the primary game and regardless of any generated outcome of the primary game.

Applicant further submits that based on the Office Action's interpretation that:

- (A) the selection of the "Quick spin" indicator or the "2 line play" indicator of Foster is the play of the primary game of the gaming device of amended independent Claim 1, and
- (B) (i) the subsequent spinning of the reels or (ii) the selection of the "Quick spin" indicator or the "5 line play" indicator of Foster is the play of the secondary game of the gaming device of amended independent Claim 1,
- (C) then Foster does not disclose determining whether to display and provide the winning outcome in the secondary game, wherein the determination is based upon the plurality of gaming elements provided from playing the primary game a plurality of times.

In other words, even if the Foster gaming device:

- (1) illuminates the "2 line play" indicator upon the player pressing the gamble button a first time,
- (2) illuminates the "5 line play" indicator upon the player pressing the gamble button a second time, and
- (3) spins the reels to provide the player any award,

the player only places a wager one time in Foster for this to occur.

On the other hand, in the gaming device of amended independent Claim 1, as each play of the primary game is displayed upon a wager and the determination of the winning outcome in the secondary game is based on playing the primary game a plurality of times, a plurality of wagers must be placed to display the winning outcome in the secondary game. Thus, while the Foster gaming device requires only one wager to display a winning outcome in the secondary game, the gaming device of amended independent Claim 1 requires a plurality of wagers (i.e., from playing the primary game a plurality of times) to display a winning outcome in the secondary game. For these reasons, Applicant respectfully submits that amended independent Claim 1 is patentably distinguished over Foster and in condition for allowance.

Claims 2 to 4, 8 to 11, 20 and 37 to 39 depend directly or indirectly from independent Claim 1, are also allowable for the reasons given with respect to Claim 1, and because of the additional features recited in these claims.

Similar to amended independent Claim 1 and unlike Foster, the method of operating a gaming device of amended independent Claim 31 includes, amongst other elements, generating an outcome in the primary game, if the generated outcome in the primary game is a winning outcome, displaying an award associated with the generated outcome in the primary game, and providing at least one gaming element of a secondary game regardless of any event in the primary game and regardless of any generated outcome of the primary game. For the reasons described with respect to amended independent Claim 1, Applicant respectfully submits that amended independent Claim 31 is patentably distinguished over Foster and in condition for allowance.

Claims 40 to 43, 46 to 49, 56, 58, 59 and 60 depend directly or indirectly from independent Claim 31, are also allowable for the reasons given with respect to Claim 31, and because of the additional features recited in these claims.

The Office Action rejected Claims 6, 7, 14 to 17, 19, 22 to 30, 34, 32 to 36, 44, 45, 52 to 55, 61 to 72 and 75 to 81 under 35 U.S.C. §103(a) as being unpatentable over Foster in view of U.S. Patent No. 5,980,384 to Barrie.

As described above, Foster discloses a gaming device in which prior to the reels spinning, one of a "Quick spin" indicator or a "2 line play" indicator is indicated to determine the number of paylines utilized for the subsequent reel spin.

Barrie discloses a primary game and a secondary game that are dynamically linked, and where the primary game can be won independently of the secondary game. The primary game of Barrie may be won on each play of the game, and the secondary game may be won over a plurality of plays of the primary game. Primary game symbols appearing during plays of the primary game may cause: (i) movement of primary game symbols to secondary game display positions; (ii) primary game symbols directing play options of secondary game symbols; (iii) changing the options open to the player in his or her attempt to win the secondary game; (iv) symbols in the primary game being used as soft buttons to affect movement of game symbols from the primary game to the secondary game, and between symbol display positions in the secondary game; and (v) secondary game symbols persisting to subsequent plays of the primary game to help the player to win at the secondary game.

Applicant submits that modifying the determination of the number of paylines of Foster (i.e., the Office Action's interpreted primary game of Foster) to include Barrie's feature of winning primary game awards in the primary game reel spin is directly contrary to the Office Action's interpretation of what constitutes the primary game of Foster. If the spinning of the reels of Barrie (i.e., the primary game of Barrie) is incorporated into the determination of the number of paylines of Foster, then the primary game of Foster includes the feature of spinning reels and thus the spinning of the reels of Foster could only reasonably be interpreted as the primary game.

Accordingly, under this interpretation that the spinning reels of Foster are the primary game of the gaming devices and methods of operating a gaming device of Claims 6, 7, 14 to 17, 19, 32, 33, 44, 45, and 52 to 55, Applicant respectfully submits that unlike the gaming devices and methods of operating a gaming device of Claims 6, 7, 14 to 17, 19, 32, 33, 44, 45, and 52 to 55, the combination of Foster and Barrie does not disclose:

- (A) a gaming device wherein the play of the primary game provides at least one of the gaming elements for the secondary game regardless of any event in the primary game and regardless of any generated outcome of the primary game, and
- (B) determines whether to display and provide the winning outcome in the secondary game, wherein the determination is based upon the plurality of gaming elements provided from playing the primary game a plurality of times.

Moreover, it would not have been obvious to one of ordinary skill in the art to modify Foster and Barrie to result in such a gaming device and method of operating a gaming device without reasonably being construed as improper hindsight reconstruction. Accordingly, Applicant respectfully submits that Claims 6, 7, 14 to 17, 19, 32, 33, 44, 45, and 52 to 55 are patentably distinguished over Foster and Barrie and in condition for allowance.

Moreover, under this interpretation that the spinning reels of Foster are the primary game of the gaming devices and methods of operating a gaming device of Claims 22 to 30, 34 to 36 and 61 to 67, Applicant respectfully submits that unlike the gaming devices and methods of operating a gaming device of Claims 22 to 30, 34 to 36 and 61 to 67, the combination of Foster and Barrie does not disclose:

- (A) a gaming device wherein the play of the primary game provides at least one of the gaming cards for the secondary game regardless of any event in the primary game and regardless of any generated outcome of the primary game, and
- (B) determines whether to display and provide the winning outcome in the secondary game based upon the plurality of gaming cards provided from playing the primary game a plurality of times.

Moreover, it would not have been obvious to one of ordinary skill in the art to modify Foster and Barrie to result in such a gaming device and method of operating a gaming device without reasonably being construed as improper hindsight reconstruction.

Accordingly, Applicant respectfully submits that Claims 22 to 30, 34 to 36 and 61 to 67 are patentably distinguished over Foster and Barrie and in condition for allowance.

Additionally, under this interpretation that the spinning reels of Foster are the primary game of the methods of operating a gaming system of Claims 68 to 72 and 75 to 81, Applicant respectfully submits that unlike the methods of operating a gaming system of Claims 68 to 72 and 75 to 81, the combination of Foster and Barrie does not disclose:

- (A) receiving a first wager amount by a first player, initiating a first primary game upon receiving the first wager amount by the first player, providing at least one gaming element of a secondary game regardless of any event in the first primary game and regardless of any outcome of the first primary game,
- (B) determining whether a winning outcome occurs in the secondary game, wherein the winning outcome is based, at least in part, on the gaming elements of the secondary game that are provided for playing the first primary game,
- (C) if the determination is that the winning outcome does not occur in the secondary game: receiving a second wager amount by a second player, initiating a second primary game upon receiving the second wager amount by the second player, providing at least one gaming element of the secondary game regardless of any event in the second primary game and regardless of any outcome of the second primary game, and
- (D) determining whether a winning outcome occurs in the secondary game, wherein the winning outcome is based, at least in part, on the gaming elements of the secondary game that are provided for playing the second primary game.

Moreover, it would not have been obvious to one of ordinary skill in the art to modify Foster and Barrie to result in such a method of operating a gaming system without reasonably being construed as improper hindsight reconstruction. Accordingly, Applicant respectfully submits that Claims 68 to 72 and 75 to 81 are patentably distinguished over Foster and Barrie and in condition for allowance.

The Office Action rejected Claims 12, 13, 18, 21, 50, 51, 57, 73 and 74 under 35 U.S.C. §103(a) as being unpatentable over Foster in view of Barrie in yet further view of U.S. Patent No. 7,297,058 to Gomez et al. ("Gomez").

As described above with respect to the combination of Barrie and Foster, Applicant submits that the spinning of the reels of Foster could only reasonably be interpreted as the primary game of Foster. The addition of Gomez fails to cure the deficiency of the combination of Barrie and Foster. Applicant respectfully submits that unlike the gaming devices and methods of operating a gaming device of Claims 12, 13, 18, 21, 50, 51 and 57, the combination of Foster, Barrie and Gomez does not disclose:

- (A) a gaming device wherein the play of the primary game provides at least one of the gaming elements for the secondary game regardless of any event in the primary game and regardless of any generated outcome of the primary game, and
- (B) determine whether to display and provide the winning outcome in the secondary game, wherein the determination is based upon the plurality of gaming elements provided from playing the primary game a plurality of times.

Moreover, it would not have been obvious to one of ordinary skill in the art to modify Foster, Barrie and Gomez to result in such a gaming device and method of operating a gaming device without reasonably being construed as improper hindsight reconstruction. Accordingly, Applicant respectfully submits that Claims 12, 13, 18, 21, 50, 51 and 57 are patentably distinguished over Foster, Barrie and Gomez and in condition for allowance.

Additionally, Applicant respectfully submits that unlike the methods of operating a gaming system of Claims 73 and 74, the combination of Foster, Barrie and Gomez does not disclose:



- (A) receiving a first wager amount by a first player, initiating a first primary game upon receiving the first wager amount by the first player, providing at least one gaming element of a secondary game regardless of any event in the first primary game and regardless of any outcome of the first primary game,
- (B) determining whether a winning outcome occurs in the secondary game, wherein the winning outcome is based, at least in part, on the gaming elements of the secondary game that are provided for playing the first primary game,
- (C) if the determination is that the winning outcome does not occur in the secondary game: receiving a second wager amount by a second player, initiating a second primary game upon receiving the second wager amount by the second player, providing at least one gaming element of the secondary game regardless of any event in the second primary game and regardless of any outcome of the second primary game, and
- (D) determining whether a winning outcome occurs in the secondary game, wherein the winning outcome is based, at least in part, on the gaming elements of the secondary game that are provided for playing the second primary game.

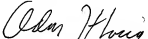
Moreover, it would not have been obvious to one of ordinary skill in the art to modify Foster, Barrie and Gomez to result in such a method of operating a gaming system without reasonably being construed as improper hindsight reconstruction. Accordingly, Applicant respectfully submits that Claims 73 and 74 are patentably distinguished over Foster, Barrie and Gomez and in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance and in the absence of more pertinent art such action is courteously

solicited. If the Examiner has any questions regarding this Response, Applicants respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

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